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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 96-8-5

Issued by the Department of Transportation
on the 2nd day of August, 1996

Served: August 8, 1996

Applications, Petitions, Motions:

AERIAL TRANSIT COMPANY

AMERICAN AIRLINES, INC.

CONTINENTAL AIRLINES, INC.

DELTA AIR LINES, INC.

FINE AIRLINES, INC.

FLAGSHIP AIRLINES, INC. D/B/A
AMERICAN EAGLE

HORIZON AIR INDUSTRIES D/B/A
HORIZON AIR

MILLON AIR, INC.

NORTHERN AIR CARGO, INC.

NORTHWEST AIRLINES, INC.

PAN AMERICAN WORLD AIRWAYS, INC. VS
THE GOVERNMENT OF BRAZIL AND
VARIG, S.A.

PAN AMERICAN WORLD AIRWAYS, INC. VS
TRANSBRASIL S.A. LINHAS AEREAS

TOWER AIR, INC.

Dockets 48446 OST-95-575 - 5

48149, OST-95-961 - 2

49174

48000, OST-95-978 - 2

OST-96-1449 - 3

OST-95-960 - 2

50153 OST-95-190 - 3

47748

49664

48400, OST-96-1005 - 2

46439

46552

47711

U.S.-Germany Third/Fourth/Fifth Freedom
Frequency Allocations for 1994/1995 Winter
Season

49673

for authority under 49 U.S.C. sections 41102 and
40109 or regulations or orders of the Department

ORDER DISMISSING APPLICATIONS

The captioned carriers have applied or petitioned for various forms of authority or relief under 49 U.S.C. sections 41102 or 40109 or regulations or orders of the Department relating to the air transportation activities shown in the Appendix to this order. Each application or motion has been withdrawn, has otherwise become moot, or cannot be approved for the reasons set forth in the Appendix.

Accordingly, acting under authority assigned by the Department in its regulations, 14 CFR 385.13, we dismiss the applications and petitions shown in the Appendix to this order.

Persons entitled to petition for review of this order under the Department's regulations, 14 CFR 385.50, may file their petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation under expiration of the above period unless within such period a petition for Department review is filed or the Department gives notice that it will review this order on its own motion.

The filing of a petition for review with respect to one of the dismissed items will not alter the effectiveness of this order with respect to the others.

By:

PAUL L. GRETCH

Director

Office of International Aviation

(SEAL)

APPENDIX

48446
OST-95-575

Aerial Transit Company, filed October 30, 1992 and amended June 17, 1993. Exemption to provide nonscheduled all-cargo service, including authority to transport individually waybilled shipments on an irregular basis, between the United States and Trinidad, Barbados and Guyana, and to combine that service with its other authorized service throughout Central America and the Caribbean. Amerijet International, Inc. filed an answer and a motion for leave to file an otherwise unauthorized document. In October 1994, Aerial ceased operations and by Orders 95-10-40 and 95-11-45, the Department revoked Aerial Transit's certificates of public convenience and necessity. As the carrier is no longer conducting airline services, its application in Docket 48446 is moot, and we will dismiss it. We also will dismiss as moot Amerijet's motion.

48149

American Airlines, Inc., filed May 8, 1992. Exemption to engage in foreign air transportation of persons, property, and mail between Miami, Florida and Medellin, Colombia, via Barranquilla, and to integrate this exemption authority with American's certificate authority on Routes 389 and 534 consistent with relevant bilateral agreements. Medellin, Colombia, is not an authorized point for U.S. carrier operations under the U.S.-Colombia agreement. We will, therefore, dismiss this application without prejudice.

OST-95-961

American Airlines, Inc., filed December 22, 1995. Renewal of exemption to provide scheduled foreign air transportation of persons, property, and mail between Dallas/Ft. Worth, Texas, and Montreal, Quebec, Canada. By Order 96-2-46, the Department granted American's certificate application in Docket OST-95-105, and issued American a certificate of public convenience and necessity for Dallas/Ft. Worth-Montreal services. The exemption renewal application is, therefore, moot, and we will dismiss it.

49174

Continental Airlines, Inc., filed October 5, 1993. Emergency exemption to provide scheduled foreign air transportation of persons, property and mail with local traffic rights between London, United Kingdom, and Munich, Federal Republic of Germany. The City of Houston and the Greater Houston Partnership filed an answer in support of Continental's application. Delta Air Lines, Trans World Airlines, and United Air Lines filed answers in opposition. Although we are engaged in open skies negotiations with the British, the aviation agreement between the United States and the United Kingdom currently provides for only one carrier to operate between the United Kingdom and Munich; the carrier authorized to provide such service is United. In these circumstances, we will dismiss the application without prejudice.

48000 Delta Air Lines, Inc., filed February 24, 1992. Petition for reconsideration of Order 92-3-31, filed by United Air Lines, Inc. on April 2, 1992. Order 92-3-31 granted Delta Air Lines, Inc. exemption authority to operate between Orlando, Florida and Paris, France (Orly). The exemption authority has lapsed, and Delta no longer serves Orlando-Paris on a nonstop basis. Therefore, we are dismissing United's petition as moot.

OST-95-978 Delta Air Lines, Inc., filed December 29, 1995. Renewal of exemption to provide scheduled foreign air transportation of persons, property, and mail between Atlanta, Georgia, and Montreal, Quebec, Canada. By Order 96-2-46, the Department granted Delta's certificate application in Docket OST-95-92, and issued Delta a certificate of public convenience and necessity for Atlanta-Montreal services. The exemption renewal application is, therefore, moot, and we will dismiss it.

OST-96-1449 Fine Airlines, Inc., filed June 12, 1996. Emergency exemption to provide scheduled foreign air transportation of property and mail between Miami, Florida, and the coterminal points Quito and Guayaquil, Ecuador, and to integrate the above authority with its existing authorities to serve Venezuela, Colombia, Panama, Costa Rica, Nicaragua, Honduras, El Salvador, Guatemala, Jamaica and the Dominican Republic; reconfirmation of its allocation of two weekly U.S.-Ecuador round-trip frequencies. Fine subsequently moved to withdraw the application. We will grant the motion and dismiss the application.

OST-95-960 Flagship Airlines, Inc. d/b/a American Eagle, filed December 22, 1995. Renewal of exemption to provide scheduled foreign air transportation of persons, property, and mail between New York, New York, and Montreal, Quebec, Canada. By Order 96-2-46, the Department granted Flagship's certificate application in Docket OST-95-102, and issued Flagship a certificate of public convenience and necessity for New York-Montreal services. The exemption renewal application is, therefore, moot, and we will dismiss it.

50153
OST-95-190 Horizon Air Industries d/b/a Horizon Air, filed February 24, 1995. Certificate of public convenience and necessity to provide scheduled combination service between Seattle, Washington, and Calgary, Alberta, Canada. The Calgary Transportation Authority filed an answer in support of the application. By Order 96-5-9, the Department granted Horizon's certificate application in Docket OST 95-634, and issued Horizon a certificate of public convenience and necessity authorizing services between any point in the United States and any point in Canada. As the authority to serve the Seattle-Calgary market is encompassed by that certificate, the certificate application in Docket 50153 is moot, and we will dismiss it.

- 47748 Millon Air, Inc., filed July 29, 1992. Renewal of exemption to provide scheduled all-cargo service between the United States and Chile and to combine the U.S.-Chile scheduled service with its other all-cargo service throughout Central and South America. By Order 93-4-3, the Department granted Millon's certificate application in Docket 48367, and issued Millon a certificate of public convenience and necessity for U.S.-Chile services. The exemption renewal application is, therefore, moot, and we will dismiss it.
- 49664 Northern Air Cargo, Inc., filed July 18, 1994. Exemption to provide scheduled foreign air transportation of property and mail between Anchorage, Alaska and Provideniya, Russia. Provideniya is not a point on the U.S. route under the U.S.-Russia Aviation Agreement. Furthermore, only three U.S. carriers may be authorized to conduct scheduled all-cargo services in the U.S.-Russia market. Those designations are held by Federal Express, Polar Air Cargo, and Evergreen International. Thus, no designations are available for additional U.S. carrier U.S.-Russia scheduled all-cargo services at this time. We, therefore, will dismiss this application without prejudice.
- 48400 Northwest Airlines, Inc., filed November 12, 1993. Application for reallocation of four U.S.-South Africa frequencies from USAfrica Airways for services between the United States and Johannesburg via Amsterdam under a code-sharing arrangement with KLM. By Notice of Action Taken January 24, 1994, we orally dismissed the application. We confirm that action here. Since our action, the United States and South Africa have entered into a new aviation agreement that provides for third-country code-share services beginning no later than November 1997. Northwest will be free to file for authority under the new agreement.
- OST-96-1005 Northwest Airlines, Inc., filed January 18, 1996. Renewal of exemption to provide scheduled foreign air transportation of persons, property, and mail between Minneapolis/St. Paul, Minnesota, and Montreal, Quebec Canada. By Order 96-2-46 the Department granted Northwest's certificate application in Docket OST-95-90, and issued Northwest a certificate of public convenience and necessity for Minneapolis/St. Paul-Montreal services. The exemption renewal application is, therefore, moot, and we will dismiss it.
- 46439 Pan American World Airways, Inc. vs. the Government of Brazil and Varig, S.A., filed August 8, 1989. Complaint against the Government of Brazil and Varig, S.A., a Brazilian flag carrier. By Order 89-11-7, the Department approved the complaint but deferred on the issue of sanctions because of ongoing intergovernmental efforts to resolve the issues raised. Since issuance of the Department's order, Pan American ceased all airline

operations and is no longer pursuing its complaint. In these circumstances, we will terminate the proceeding and dismiss the complaint.

- 46522 Pan American World Airways, Inc. vs. Transbrasil S.A. Linhas Aereas, filed October 2, 1989. Complaint against Transbrasil, a Brazilian flag carrier. By Order 89-11-7, the Department approved the complaint but deferred on the issue of sanctions because of ongoing intergovernmental efforts to resolve the issues raised. Since issuance of the Department's order, Pan American has ceased all airline operations and is no longer pursuing its complaint. In these circumstances, we will terminate the proceeding and dismiss the complaint.
- 47711 Tower Air, Inc., filed August 23, 1991. Certificate of public convenience and necessity to provide scheduled combination air service between New York, New York and Athens, Greece. Under the bilateral agreement between the United States and Greece only two U.S. air carriers may be authorized for such service. TWA and Delta hold this authority and are serving the route. In these circumstances, we will dismiss the application without prejudice.
- 49673 In the Matter of U.S. Germany Third/Fourth/Fifth Freedom Frequency Allocations for the 1994-1995 Winter Season--Petition for Clarification of Department's Final Order 94-9-26, filed October 5, 1994. The Department's final order indicated that it would complete a proceeding early in 1995 regarding 1995 summer frequency allocations in sufficient time for carriers that were allocated frequencies to plan and market the services needed. The City of Philadelphia sought clarification as to what "early next year" meant and proposed a procedural schedule for the Department to follow. Delta and United filed answers in opposition. On October 7, 1994, the Department instituted a proceeding regarding the subject frequencies (Docket 49818) and established a procedural schedule for the proceeding. The petition for clarification therefore is moot, and we will dismiss it.